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10 Attorney for Defendants,
11 JESUS S. VALDEZ and MEZA FAMILY &
12 ASSOCIATES, INC., dba DON FELIX CAFE

FILED

08 JUL 11 PM 2:51

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

08 CV 1248 JLS BAM

13 UNITED STATES DISTRICT COURT
14 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 NONI GOTTI,
16
17 Plaintiff,

18 v.

19 JESUS S. VALDEZ; MEZA FAMILY &
20 ASSOCIATES INC., DBA DON FELIX CAFE; and
21 DOES 1 THROUGH 10, Inclusive,
22 Defendants.

Case No.:

NOTICE OF REMOVAL OF ACTION

23 TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
24 SOUTHERN DISTRICT OF CALIFORNIA:

25 PLEASE TAKE NOTICE that Defendants JESUS S. VALDEZ and MEZA FAMILY &
26 ASSOCIATES, INC., dba DON FELIX CAFÉ hereby remove to this Court the State Court
27 action described below.

28 1. On May 20, 2008, an action was commenced against Defendants JESUS S.
VALDEZ, MEZA FAMILY & ASSOCIATES, INC., dba DON FELIX CAFE; and DOES 1
THROUGH 10, Inclusive, in the San Diego County Superior Court, South County Division,
bearing case number 37-2008-00070659-CU-CR-SC, and captioned NONI GOTTI, Plaintiff, v.
JESUS S. VALDEZ, MEZA FAMILY & ASSOCIATES, INC., dba DON FELIX CAFE; and
DOES 1 THROUGH 10, Inclusive.

NOTICE OF REMOVAL OF ACTION

CR

1 2. On June 13, 2008, service of the summons and complaint was made on
2 Defendants JESUS S. VALDEZ and MEZA FAMILY & ASSOCIATES, INC., dba DON FELIX
3 CAFE, true and correct copies of which are attached hereto as Exhibit A and incorporated by
4 reference. No further proceedings have been had in the state court action.

5 3. The above-described action is a civil action of which the District Court has
6 original jurisdiction under the provisions of 42 United States Code section 12101, et seq. (The
7 Americans With Disabilities Act), and is one that may be removed to the United States District
8 Court by Defendants pursuant to 28 United States Code section 1441, according to the following
9 facts: It appears from the face of Plaintiff NONI GOTTI's complaint that the civil action arises
10 under the Americans With Disabilities Act, 42 United States Code sections 12182 and 12183, by
11 virtue of alleged discriminatory actions in public accommodations by Defendants, to wit,
12 facilities owned by Defendants are alleged to have impaired or hindered access.

13 WHEREFORE, Defendants pray that the above action now pending in the Superior Court
14 of California, County of San Diego, South County Division, be removed therefrom to this United
15 States District Court.

16
17 DATED: July 11, 2008

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

18
19
20 By: 

Spencer C. Skeen (Bar No. 182216)
B. Allison Borkenheim (Bar No. 230318)
Marsha Amin (Bar No. 238820)
Attorneys for Defendants, JESUS S.
VALDEZ and MEZA FAMILY &
ASSOCIATES, INC., dba DON FELIX
CAFE

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

JESUS S. VALDEZ; MEZA FAMILY & ASSOCIATES INC. DBA DON FELIX CAFE; and DOES 1 THROUGH 10, Inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTA DEMANDANDO EL DEMANDANTE):

NONI GOTTI

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
08 MAY 20 PM 4:02
CLERK - SUMMIT
SAN DIEGO COUNTY, CA

You have **30 CALENDAR DAYS** after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: San Diego Superior Court
(El nombre y dirección de la corte es):

CASE NUMBER
(Número del caso):
37-2008-00070659-CU-CR-SC

South County Regional Center
500 3rd Avenue, Chula Vista, California 91910

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Theodore A. Pinnock, Esq. Bar #: 153434; David C. Wakefield, Esq. Bar #: 185736; Michelle Wakefield, Esq. Bar #: 200424
3033 Fifth Avenue, Suite 410 San Diego, CA 92103
J. Meiras

DATE: MAY 20 2008
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant. **JESUS S. Valdez / MEZA**

2. ☐ as the person sued under the fictitious name of (specify):
143 W 57B

3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date): **6-13-08**

FILED
SOUTH COUNTY

08 MAY 20 PM 4: 02

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

PINNOCK & WAKEFIELD

A Professional Corporation

Theodore A. Pinnock, Esq.

Bar #: 153434

David C. Wakefield, Esq.

Bar #: 185736

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San Diego, CA 92103

Telephone: 619.858.3671

Facsimile: 619.858.3646

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

NONI GOTTI,

Plaintiff,

v.

**JESUS S. VALDEZ; MEZA FAMILY &
ASSOCIATES INC. DBA DON FELIX
CAFE; And DOES 1 THROUGH 10,
Inclusive**

Defendants.

Case No.37-2008-00070659-CU-CR-SC

**CIVIL COMPLAINT:
DISCRIMINATORY PRACTICES IN
PUBLIC ACCOMMODATIONS**

**[42 U.S.C. 12182(a) ET. SEQ; CIVIL
CODE 51, 52, 54, 54.1, 54.3]**

**UNLIMITED CIVIL CASE -
PERMANENT INJUNCTIVE RELIEF**

NAMED DEFENDANTS AND NAMED PLAINTIFF

1. Plaintiff is informed, believes and thereon alleges that Defendants are, and, at all times mentioned herein, were, a business or corporation or franchise organized and existing and/or doing business under the laws of the State of California. Plaintiff is informed and believes and thereon alleges that Defendants JESUS S. VALDEZ; MEZA FAMILY & ASSOCIATES INC. DBA DON FELIX CAFE are the owner, operator, and/or lessor/lessee of the real property and the public accommodation located thereon at the Property Address: 143 SAN YSIDRO BLVD W, SAN YSIDRO, CA 92173; Assessor's Parcel Number: 666-030-14. Defendant JESUS S. VALDEZ is located at 3616 SUNSET LN, SAN YSIDRO, CA 92173. Defendant MEZA FAMILY & ASSOCIATES INC. DBA DON FELIX CAFÉ is located at 143 W SAN YSIDRO

1 BLVD STE A, SAN YSIDRO, CA 92173-2555 or c/o Registered Agent: YOLANDA
2 DAVALOS, located at 66 WALNUT DR, CHULA VISTA, CA 91911.

3 2. The words Plaintiff and Plaintiffs as used herein specifically include NONI GOTTI.

4 3. Defendants Does 1 through 10, were at all times relevant herein subsidiaries, employers,
5 employees, agents, of Defendants JESUS S. VALDEZ; MEZA FAMILY & ASSOCIATES INC.
6 DBA DON FELIX CAFE. Plaintiff is ignorant of the true names and capacities of Defendants
7 sued herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such
8 fictitious names. Plaintiff will pray leave of the court to amend this complaint to allege the true
9 names and capacities of the Does when ascertained.

10 4. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them
11 herein were, at all times relevant to the action, the owner, lessor, lessee, franchiser, franchisee,
12 general partner, limited partner, agent, employee, representing partner, or joint venturer of the
13 remaining Defendants and were acting within the course and scope of that relationship. Plaintiff
14 is further informed and believe, and thereon allege, that each of the Defendants herein gave
15 consent to, ratified, and/or authorized the acts alleged herein to each of the remaining Defendants.

16 **CONCISE SET OF FACTS**

17 5. Plaintiff NONI GOTTI (hereinafter "Plaintiff") has physical and mental impairments and
18 due to these impairments she has successfully learned to walk with a service animal. Plaintiff
19 said physical and mental impairments substantially limit one or more of the following major life
20 activities including but not limited to: walking and clinical depression. Plaintiff has a long
21 history of mental impairments. Plaintiff's doctor required her to travel with a service dog as a
22 non-medicated treatment for her conditions. Defendants refused Plaintiff entrance due to the dog
23 or have a policy prohibiting service dogs.

24 6. Plaintiff has physical and mental impairments because their conditions affect one or more
25 of the following body systems: neurological, musculoskeletal, special sense organs, and/or
26 cardiovascular. Further, Plaintiff said physical impairments substantially limits one or more of
27 the following major life activities. In addition, Plaintiff cannot perform one or more of the said
28

1 major life activities in the manner, speed, and duration when compared to the average person.
2 Moreover, Plaintiff has a history of or has been classified as having a physical impairment as
3 required by 42 U.S.C. § 12102(2)(A).

4 7. On May 18, 2008, Plaintiff NONI GOTTI desired to visit Defendants' public
5 accommodation facilities located at Property Address: 143 SAN YSIDRO BLVD W, SAN
6 YSIDRO, CA 92173; Assessor's Parcel Number: 666-030-14 to utilize their goods and/or
7 services. When Plaintiff NONI GOTTI desired to patronize Defendants' public accommodation
8 facilities, she was unable to use and/or had difficulty using the public accommodations' facilities
9 including but not limited to the barriers to access listed herein and said facilities were not
10 accessible because they failed to comply with ADA Access Guidelines For Buildings and
11 Facilities (hereafter referred to as "ADAAG" and codified in 28 C.F.R. Part 36, App. A) and/or
12 California's Title 24 Building Code Requirements. Defendants failed to remove barriers to equal
13 access within their public accommodation facilities as required.

14 8. Plaintiff NONI GOTTI personally experienced difficulty with said access barriers as listed
15 herein to the present Complaint at Defendants' public accommodation facilities located on the
16 Property and/or has knowledge of said access barriers and is presently deterred from accessing
17 the public accommodation. Plaintiff alleges that these known barriers to access are not an
18 exhaustive list of the barriers to access that exist at Defendants' facilities.

19 9. Defendants failed to provide auxiliary aids and services that are necessary to ensure equal
20 access to the goods, services, privileges, or accommodations that it offers. Title 28, part 36.303
21 of Code of Federal Regulations states:

22 (a) General. A public accommodation shall take those steps that may be necessary to ensure that
23 no individual with a disability is excluded, denied services, segregated or otherwise treated
24 differently than other individuals because of the absence of auxiliary aids and services, unless the
25 public accommodation can demonstrate that taking those steps would fundamentally alter the
26 nature of the goods, services, facilities, privileges, advantages, or accommodations being offered
27 or would result in an undue burden, i.e., significant difficulty or expense.
28

1 (b) Examples. The term "auxiliary aids and services" includes:

2 (1) Qualified interpreters, notetakers, computer-aided transcription services, written
3 materials, telephone handset amplifiers, assistive listening devices, assistive listening
4 systems, telephones compatible with hearing aids, closed caption decoders, open and
5 closed captioning, telecommunications devices for deaf persons (TDD's), videotext
6 displays, or other effective methods of making aurally delivered materials available to
7 individuals with hearing impairments;

8 (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print
9 materials, or other effective methods of making visually delivered materials available to
10 individuals with visual impairments;

11 (3) Acquisition or modification of equipment or devices; and

12 (4) Other similar services and actions.

13 (c) Effective communication. A public accommodation shall furnish appropriate auxiliary aids
14 and services where necessary to ensure effective communication with individuals with
15 disabilities.

16 10. Plaintiff can prove these barriers as Plaintiff conducted a preliminary survey of
17 Defendants' facility. Plaintiff specifically alleges that Defendants knew, to a substantial
18 certainty, that the architectural barriers precluded equal access. First, Plaintiff will prove that
19 Defendants had actual knowledge that the architectural barriers precluded equal access and that
20 the noncompliance with ADAAG as to accessible entrances was intentional. Second, due to the
21 abundance of ADA information and constant news covers of ADA lawsuits, Defendants had
22 actual knowledge of the ADA and decided deliberately not to remove architectural barriers.
23 Third, Defendants have no plans to remodel. Fourth, Defendants had actual knowledge of ADA
24 given all the ADA public awareness campaigns, the abundance of free ADA information and the
25 media's constant ADA coverage. Fifth, a human being acting for the defendants made a
26 conscious decision as to how to proceed given the presence of the architectural barriers. Plaintiff
27 alleges any alternative methods preclude integration of disabled patrons, as it requires them to use
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1 second-class facilities. Also, expert testimony will show the facility contained inaccessible
2 features. Plaintiff alleges businesses often state that they have few customers with disabilities.
3 Plaintiff alleges such customers avoid patronizing inaccessible businesses and are deterred from
4 patronizing such businesses.

5 11. The Plaintiff went to the property 143 SAN YSIDRO BLVD W, SAN YSIDRO. The
6 property has no International Symbol of Accessibility signage at the entrance, the counter exceeds
7 36 inches and there are loose mats. Also, the seating is not accessible.

8 12. Plaintiff intends to return to Defendants' public accommodation facilities in the immediate
9 future. Plaintiff was deterred and is presently deterred from returning due to her knowledge of
10 the barriers to access that exist at Defendants' facilities.

11 13. Pursuant to federal and state law, Defendants are required to remove barriers to their
12 existing facilities. Further, Defendants had actual knowledge of their barrier removal duties
13 under the Americans with Disabilities Act and the Civil Code before January 26, 1992. Also,
14 Defendants should have known that individuals with disabilities are not required to give notice to
15 a governmental agency before filing suit alleging Defendants failed to remove architectural
16 barriers.

17 14. Plaintiff believes and herein alleges Defendants' facilities have access violations not
18 directly experienced by Plaintiff which would preclude or limit access by Plaintiff potentially
19 including but not limited to violations of the ADA, ADA Accessibility Guidelines (Codified in 28
20 C.F.R. Part 36, App. A) and Title 24 of the California Building Code. Plaintiff alleges
21 Defendants are required to utilize the ADA checklist for Readily Achievable Barrier Removal
22 approved by the United States Department of Justice and created by Adaptive Environments.
23 Plaintiff is entitled to injunctive relief to remove all barriers to access that are related to her
24 disability even those barriers that are only known to exist but are not directly experienced by
25 plaintiff. *Doran v 7-Eleven Inc*, 2007 U.S.App.Lexis 26143 (9th Cir 2007).

26 15. Based on these facts, Plaintiff alleges she was discriminated against each time he
27 patronized and/or was deterred from patronizing Defendants' facilities. Plaintiff was extremely
28

upset due to Defendants' conduct.

16. Plaintiff is not required to provide notice to the defendants prior to filing a complaint and/or to recover attorney fees and costs. *Botosan v. Paul McNally Realty*, 216 F.3d 827, 832 (9th Cir 2000). *Skaff v Meridien*, 2007 U.S. App. LEXIS 25516 (9th Cir 2007).

WHAT CLAIMS ARE PLAINTIFF ALLEGING AGAINST EACH NAMED DEFENDANT

17. Defendants JESUS S. VALDEZ; MEZA FAMILY & ASSOCIATES INC. DBA DON FELIX CAFE and Does 1 through 10 will be referred to collectively hereinafter as "Defendants."

18. Plaintiff avers that the Defendants are liable for the following claims as alleged below:

DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The Americans With Disabilities Act Of 1990

Claim I

19. Based on the facts stated above, Defendants discriminated against Plaintiff on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation as Defendants own, lease (or lease to), or operate a place of public accommodation in violation of 42 U.S.C. §12182.

Claim II

20. Based on the facts stated above, Defendants discriminated against Plaintiff directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity in violation of 42 U.S.C. §12182.

Claim III

21. Based on the facts stated above, Defendants discriminated against Plaintiff as it is discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility,

1 privilege, advantage, or accommodation that is not equal to that afforded to other individuals in
2 violation of 42 U.S.C. §12182.

3 Claim IV

4 22. Based on the facts stated above, Defendants discriminated against Plaintiff as it is
5 discriminatory to provide an individual or class of individuals, on the basis of a disability or
6 disabilities of such individual or class, directly, or through contractual, licensing, or other
7 arrangements with a good, service, facility, privilege, advantage, or accommodation that is
8 different or separate from that provided to other individuals.

9 Claim V

10 23. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
11 failed to afford to an individual with a disability in the most integrated setting appropriate to
12 the needs of the individual in violation of 42 U.S.C. §12182.

13 Claim VI

14 24. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
15 utilized standards or criteria or methods of administration that have the effect of discriminating on
16 the basis of disability; or that perpetuate the discrimination of others who are subject to common
17 administrative control in violation of 42 U.S.C. §12182.

18 Claim VII

19 25. Based on the facts stated above, Defendants discriminated against Plaintiff as it is
20 discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges,
21 advantages, accommodations, or other opportunities to an individual or entity because of the
22 known disability of an individual with whom the individual or entity is known to have a
23 relationship or association in violation of 42 U.S.C. §12182. See Niece v. Fitzner 922 F. Supp.
24 1208 (1996)

25 Claim VIII

26 26. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
27 engaged in the specific prohibitions as stated in 42 U.S.C. §12182.
28

1 Claim IX

2 27. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendant
 3 failed to demonstrate that the removal of a barrier is not readily achievable, and made such goods,
 4 services, facilities, privileges, advantages, or accommodations available through alternative
 5 methods in a segregated manner in violation of 42 U.S.C. §12182. Plaintiff is entitled to
 6 injunctive relief to remove all barriers to access that are related to his disability even those
 7 barriers that are only known to exist but are not directly experienced by plaintiff. *Doran v 7-*
 8 *Eleven Inc*, 2007 U.S.App.Lexis 26143 (9th Cir 2007).

9 Claim X

10 28. Based on the facts stated above, Defendants discriminated against Plaintiff as Defendants
 11 altered the use of their establishment in a manner that affected or could have affected the usability
 12 of the facility or part thereof and failed to make alterations in such a manner that, to the maximum
 13 extent feasible, the altered portions of the facility are readily accessible to and usable by
 14 individuals with disabilities in violation of 42 U.S.C. §12183.

15 29. WHEREFORE, Plaintiff pray for judgment and relief as hereinafter set forth.

17 SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER
 18 CALIFORNIA ACCESSIBILITY LAWS

19 CLAIM I: Denial Of Full And Equal Access

20 30. Based on the facts plead above and elsewhere in this complaint, Plaintiff was denied full
 21 and equal access to Defendants' goods, services, facilities, privileges, advantages, or
 22 accommodations within a public accommodation owned, leased, and/or operated by Defendants
 23 as required by Civil Code Sections 54 and 54.1.

24 CLAIM II: Failure To Modify Practices, Policies And Procedures

25 31. Based on the facts plead above and elsewhere herein this complaint, Defendants failed and
 26 refused to provide a reasonable alternative by modifying its practices, policies, and procedures in
 27 that they failed to have a scheme, plan, or design to assist Plaintiff and/or others similarly situated
 28 in entering and utilizing Defendants' services as required by Civil Code § 54.1. Thus, Plaintiff

1 was subjected to discrimination in violation of Civil Code § 54.1.

2 **CLAIM III: Violation Of The Unruh Act**

3 32. Based on the facts plead above and elsewhere herein this complaint and because
4 Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code §
5 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to knowingly
6 discriminate against Plaintiff and persons similarly situated in violation of Civil Code §§ 51, 52,
7 and 54.1. Plaintiff alleges the access violations alleged here are so obvious as to implicate at least
8 a prima facie case of discriminatory intent.

9 33. Based on the facts plead above, Claims I, II, and III of Plaintiffs' Second Cause Of
10 Action above, and the facts elsewhere herein this complaint, Plaintiff will suffer irreparable harm
11 unless Defendants are ordered to remove architectural, non-architectural, and communication
12 barriers at Defendants' public accommodation. Plaintiff alleges that Defendants' discriminatory
13 conduct is capable of repetition, and this discriminatory repetition adversely impacts Plaintiff and
14 a substantial segment of the disability community. Plaintiff alleges there is a state and national
15 public interest in requiring accessibility in places of public accommodation. Plaintiff has no
16 adequate remedy at law to redress the discriminatory conduct of Defendants. Plaintiff desires to
17 return to Defendants' places of business in the immediate future. Accordingly, the Plaintiff
18 alleges that a structural or mandatory injunction is necessary to enjoin compliance with state civil
19 rights laws enacted for the benefit of individuals with disabilities.

20 34. Wherefore, Plaintiff prays for damages and relief as hereinafter stated.
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DEMAND FOR JUDGMENT FOR RELIEF:

- A. For injunctive relief pursuant to 42 U.S.C. § 12188(a).
- B. For general damages pursuant to Cal. Civil Code §§ 52 or 54.3;
- C. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for each and every offense of Civil Code § 51, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines (Codified in 28 C.F.R. Part 36, App. A);
- D. In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph C above, for \$1,000 in damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil Code § 54.1, Title 24 of the California Building Code, ADA, and ADA Accessibility Guidelines;
- E. For treble damages pursuant to Cal. Civil Code §§ 52(a) or 54.3(a);
- F. For attorneys fees pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12205, and Cal. Civil Code § 52; 54.3;
- G. A Jury Trial and;
- H. For such other further relief as the court deems proper.

Respectfully submitted:

Dated: May 19, 2008

PINNOCK & WAKEFIELD, A.P.C.

By: _____

THEODORE A. PINNOCK, ESQ.
DAVID C. WAKEFIELD, ESQ.
Attorneys for Plaintiff

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Theodore A. Pinnock, Esq. Bar #: 153434; David C. Wakefield, Esq. Bar#: 185736;
Michelle L. Wakefield, Esq. Bar #: 200424
3033 Fifth Avenue, Suite 410 San Diego, CA 92103

TELEPHONE NO.: 619.858.3671

FAX NO.: 619.858.3646

ATTORNEY FOR (Name): PLAINTIFF

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

STREET ADDRESS: 500 3rd Avenue

MAILING ADDRESS:

CITY AND ZIP CODE: Chula Vista, California 91910

BRANCH NAME: South County Regional Center

CASE NAME: NONI GOTTI v. JESUS S. VALDEZ; ET AL

FILED FOR COURT USE ONLY
SOUTH COUNTY

08 MAY 20 PM 4: 02

CLERK - SUPERIOR COURT
SAN DIEGO COUNTY, CA

CIVIL CASE COVER SHEET

☒ Unlimited☐ Limited(Amount
demanded(Amount
demanded is

exceeds \$25,000)

\$25,000 or less)

Complex Case Designation

☐ Counter☐ JoinderFiled with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

37-2008-00070659-CU-CR-SC

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)☐ Uninsured motorist (46)Other PI/PD/WD (Personal Injury/Property
Damage/Wrongful Death) Tort☐ Asbestos (04)☐ Product liability (24)☐ Medical malpractice (45)☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)☒ Civil rights (08)☐ Defamation (13)☐ Fraud (16)☐ Intellectual property (19)☐ Professional negligence (25)☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)☐ Collections (09)☐ Insurance coverage (18)☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse
condemnation (14)☐ Wrongful eviction (33)☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)☐ Residential (32)☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)☐ Petition re: arbitration award (11)☐ Writ of mandate (02)☐ Other judicial review (39)

Provisionally Complex Civil Litigation

(Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)☐ Construction defect (10)☐ Mass tort (40)☐ Securities litigation (28)☐ Environmental/Toxic tort (30)☐ Insurance coverage claims arising from the
above listed provisionally complex case
types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)☐ Other petition (not specified above) (43)2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented parties d. ☐ Large number of witnessesb. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal courtc. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):

a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 2

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 5/20/08

Theodore A. Pinnock

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court. **To Parties in Complex Cases**

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage

Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
type/Wrongful Death
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil

Litigation (Cal. Rules of Court Rules Breach of Rental/Lease 1800–1812)
Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NUMBER: 37-2008-00070659-CU-CR-SC

CASE TITLE: Gotti vs. Valdez

NOTICE TO LITIGANTS/ADR INFORMATION PACKAGE

You are required to serve a copy of this Notice to Litigants/ADR Information Package and a copy of the blank Stipulation to Alternative Dispute Resolution Process (received from the Civil Business Office at the time of filing) with a copy of the Summons and Complaint on all defendants in accordance with San Diego Superior Court Rule 2.1.5, Division II and CRC Rule 201.9.

ADR POLICY

It is the policy of the San Diego Superior Court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conferences. It is the court's expectation that litigants will utilize some form of ADR – i.e. the court's mediation or arbitration programs or other available private ADR options as a mechanism for case settlement before trial.

ADR OPTIONS

1) CIVIL MEDIATION PROGRAM: The San Diego Superior Court Civil Mediation Program is designed to assist parties with the early resolution of their dispute. All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participant in the program. Limited civil collection cases are not eligible at this time. San Diego Superior Court Local Rule 2.31, Division II addresses this program specifically. Mediation is a non-binding process in which a trained mediator 1) facilitates communication between disputants, and 2) assists parties in reaching a mutually acceptable resolution of all or part of their dispute. In this process, the mediator carefully explores not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities. The mediator is not the decision-maker and will not resolve the dispute – the parties do. Mediation is a flexible, informal and confidential process that is less stressful than a formalized trial. It can also save time and money, allow for greater client participation and allow for more flexibility in creating a resolution.

Assignment to Mediation, Cost and Timelines: Parties may stipulate to mediation at any time up to the CMC or may stipulate to mediation at the CMC. Mediator fees and expenses are split equally by the parties, unless otherwise agreed. Mediators on the court's approved panel have agreed to the court's payment schedule for county-referred mediation: \$150.00 per hour for each of the first two hours and their individual rate per hour thereafter. Parties may select any mediator, however, the court maintains a panel of court-approved mediators who have satisfied panel requirements and who must adhere to ethical standards. All court-approved mediator fees and other policies are listed in the Mediator Directory at each court location to assist parties with selection. **Discovery:** Parties do not need to conduct full discovery in the case before mediation is considered, utilized or referred. **Attendance at Mediation:** Trial counsel, parties and all persons with full authority to settle the case must personally attend the mediation, unless excused by the court for good cause.

2) JUDICIAL ARBITRATION: Judicial Arbitration is a binding or non-binding process where an arbitrator applies the law to the facts of the case and issues an award. The goal of judicial arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The arbitrator's award may either become the judgment in the case if all parties accept or if no trial de novo is requested within the required time. Either party may reject the award and request a trial de novo before the assigned judge if the arbitration was non-binding. If a trial de novo is requested, the trial will usually be scheduled within a year of the filing date.

Assignment to Arbitration, Cost and Timelines: Parties may stipulate to binding or non-binding judicial arbitration or the judge may order the matter to arbitration at the case management conference, held approximately 150 days after filing, if a case is valued at under \$50,000 and is "at issue". The court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. In addition, if parties select an arbitrator from the court's panel, the court will pay the arbitrator's fees. Superior Court

3) SETTLEMENT CONFERENCES: The goal of a settlement conference is to assist the parties in their efforts to negotiate a settlement of all or part of the dispute. Parties may, at any time, request a settlement conference before the judge assigned to their case; request another assigned judge or a pro tem to act as settlement officer; or may privately utilize the services of a retired judge. The court may also order a case to a mandatory settlement conference prior to trial before the court's assigned Settlement Conference judge.

4) OTHER VOLUNTARY ADR: Parties may voluntarily stipulate to private ADR options outside the court system including private binding arbitration, private early neutral evaluation or private judging at any time by completing the "Stipulation to Alternative Dispute Resolution Process" which is included in this ADR package. Parties may also utilize mediation services offered by programs that are partially funded by the county's Dispute Resolution Programs Act. These services are available at no cost or on a sliding scale based on need. For a list of approved DRPA providers, please contact the County's DRPA program office at (619) 428-3200.

ADDITIONAL ADR INFORMATION: For more information about the Civil Mediation Program, please contact the Civil Mediation Department at (619) 515-8908. For more information about the Judicial Arbitration Program, please contact the Arbitration Office at (619) 531-3818. For more information about Settlement Conferences, please contact the Independent Calendar department to which your case is assigned. Please note that staff can only discuss ADR options and cannot give legal advice.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO		FOR COURT USE ONLY
STREET ADDRESS: 500 Third Avenue		
MAILING ADDRESS: 500 Third Avenue		
CITY, STATE, & ZIP CODE: Chula Vista, CA 91910-5649		
BRANCH NAME: South County		
PLAINTIFF(S): Noni Gotti		
DEFENDANT(S): Jesus S. Valdez et.al.		
SHORT TITLE: GOTTI VS. VALDEZ		
STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION PROCESS (CRC 3.221)		CASE NUMBER: 37-2008-00070659-CU-CR-SC

Judge: William S. Cannon

Department: S-04

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution process. Selection of any of these options will not delay any case management time-lines.

- | | |
|---|---|
| <input type="checkbox"/> Court-Referred Mediation Program | <input type="checkbox"/> Court-Ordered Nonbinding Arbitration |
| <input type="checkbox"/> Private Neutral Evaluation | <input type="checkbox"/> Court-Ordered Binding Arbitration (Stipulated) |
| <input type="checkbox"/> Private Mini-Trial | <input type="checkbox"/> Private Reference to General Referee |
| <input type="checkbox"/> Private Summary Jury Trial | <input type="checkbox"/> Private Reference to Judge |
| <input type="checkbox"/> Private Settlement Conference with Private Neutral | <input type="checkbox"/> Private Binding Arbitration |
| <input type="checkbox"/> Other (specify): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate: (mediation & arbitration only) _____

Date: _____

Date: _____

Name of Plaintiff _____

Name of Defendant _____

Signature _____

Signature _____

Name of Plaintiff's Attorney _____

Name of Defendant's Attorney _____

Signature _____

Signature _____

(Attach another sheet if additional names are necessary). It is the duty of the parties to notify the court of any settlement pursuant to California Rules of Court, 3.1385. Upon notification of the settlement the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court and all un-served, non-appearing or actions by names parties are dismissed.

IT IS SO ORDERED.

Dated: 05/21/2008

JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 500 Third Avenue	
MAILING ADDRESS: 500 Third Avenue	
CITY AND ZIP CODE: Chula Vista, CA 91910-5649	
BRANCH NAME: South County	
TELEPHONE NUMBER: (619) 891-4400	
PLAINTIFF(S) / PETITIONER(S): Noni Gotti	
DEFENDANT(S) / RESPONDENT(S): Jesus S. Valdez et.al.	
GOTTI VS. VALDEZ	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2008-00070659-CU-CR-SC

Judge: William S. Cannon

Department: S-04

COMPLAINT/PETITION FILED: 05/20/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

Noni Gotti v. Jesus S. Vazquez, et al.
USDC, Southern District of California

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 530 "B" Street, Suite 2100, San Diego, California 92101. On July 11, 2008, I served the within documents:

NOTICE OF REMOVAL OF ACTION; CIVIL COVER SHEET

- ☐ by transmitting via facsimile number (619) 235-0398 the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.
- ☐ by placing the document(s) listed above in a sealed overnight envelope and depositing it for overnight delivery at San Diego, California, addressed as set forth below. I am readily familiar with the practice of this firm for collection and processing of correspondence for processing by overnight mail. Pursuant to this practice, correspondence would be deposited in the overnight box located at 530 "B" Street, San Diego, California 92101 in the ordinary course of business on the date of this declaration.
- ☐ by personally delivering via Knox Attorney Service the document(s) listed above to the person(s) at the address(es) set forth below.

Theodore A. Pinnock, Esq.
David C. Wakefield, Esq.
Michelle Wakefield, Esq.
3033 Fifth Avenue, Suite 410
San Diego, CA 92103

Attorney for Plaintiff
Noni Gotti

- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 11, 2008, at San Diego, California.


Katy E. Mazzei

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained hereon shall not replace nor supplement the filing and service of process or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Noni Gotti	DEFENDANTS Jesus S. Valdez; Mesa Family & Associates, Inc. dba Don Felix Cafe <div style="text-align: right; font-size: 2em; font-weight: bold;">FILED</div>
(b) County of Residence of First Listed Plaintiff <u>San Diego</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant <u>San Diego</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
(c) Attorney's (Firm Name, Address, and Telephone Number) Theodore A. Pinnock (Bar No. 153434) Pinnock & Wakefield, APC 3033 Fifth Avenue, Suite 410 San Diego, California 92103 Tel: (619) 858-3671	Attorneys (If Known) Spencer C. Skeen (Bar No. 182216) Procopio Cory Hargreaves & Savitch LLP DEPUTY 530 B Street, Suite 2100 San Diego, California 92101 Tel: (619) 238-1900 <div style="text-align: right; font-size: 1.5em; font-weight: bold;">DB CV 1248 JLS BLM</div>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)												
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="0" style="width:100%"> <tr> <td style="width:33%">Citizen of This State</td> <td style="width:33%">PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width:33%">Incorporated or Principal Place of Business In This State</td> <td style="width:33%">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)																																	
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Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise </td> <td> <table border="1" style="width:100%"> <tr> <th>PERSONAL INJURY</th> <th>PERSONAL INJURY</th> </tr> <tr> <td> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <th>PERSONAL PROPERTY</th> </td></tr> <tr> <td> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table> </td> </tr> </table>	CONTRACT	TORTS	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. 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V. ORIGIN (Place an "X" in One Box Only)	Transferred from
<input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>42 United States Code Sections 12182 and 12183</u> Brief description of cause: <u>Americans with Disabilities Act</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ <u>Not specified</u> CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE <u>July 11, 2008</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Marsha S.</u>	FOR OFFICE USE ONLY RECEIPT # <u>152924</u> AMOUNT <u>\$350</u> APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____
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UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

152924 - TC
* * C O P Y * *
July 11, 2008
15:05:28

Civ Fil Non-Pris

USAO #: 08CV1245J
Amount.: \$350.00 CK
Check#: BC2172

Civ Fil Non-Pris

USAO #: 08CV1245W
Amount.: \$350.00 CK
Check#: 1

Civ Fil Non-Pris

USAO #: 08CV1247
Amount.: \$350.00 CK
Check#: 1

Civ Fil Non-Pris

USAO #: 08CV1248
Amount.: \$350.00 CK
Check#: 1

Civ Fil Non-Pris

USAO #: 08CV1250
Amount.: \$350.00 CK
Check#: 1

Civ Fil Non-Pris

USAO #: 08CV1251
Amount.: \$350.00 CK
Check#: 1

Total-> \$2,100.00

FROM: CIVIL FILINGS